

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT SAVAGE, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. 4:08-CV-1162-CAS
)	
3M COMPANY, as Successor by Merger)	
to Minnesota Mining and)	
Manufacturing Company, and/or)	
Its Predecessors/Successors)	
in Interest, et al.,)	
)	
Defendants.)	

STIPULATED MOTION TO AMEND CASE MANAGEMENT ORDER
AND CONTINUE TRIAL DATE

COMES NOW Defendant 3M Company, by and through its attorneys, John J. Kurowski and the law firm of Kurowski, Bailey & Shultz, LLC, with the agreement of all parties to this case, hereby moves this Court to amend its Case Management Order and continue the trial date, and in support of this Motion, states as follows:

1. This Court entered its Case Management Order on December 5, 2008, setting this case for trial on February 8, 2010. (See Document 20).
2. Pursuant to the Case Management Order, the parties have been conducting extensive discovery. The discovery process is ongoing.
3. Counsel for 3M Company has been in contact with counsel for Plaintiffs and its co-defendant, Mine Safety Appliances. Counsel for Plaintiffs and 3M Company agree that certain deadlines in the Case Management Order need to be amended to reflect the efforts of the discovery process and to give all counsel more time to conduct discovery. The extent of the discovery requests and the time needed to comply by all parties gives rise to the exceptional circumstances necessitating these amendments.

4. Defendant Mine Safety Appliances has represented it will not oppose this motion.

5. The parties, in good faith, anticipate that reasonable attempts to settle this case will occur once information from Plaintiff's employer is produced. Such information was requested in March of 2009 but has not yet been produced. Plaintiff's employer asserted a broad protective order and did not immediately produce records. It is anticipated the parties will receive these records this week or the following week.

6. Plaintiff and 3M Company agree that the trial date in this matter needs to be continued, to be consistent with the new discovery deadlines.

7. The following deadlines are from Paragraph 4 of "Section I Scheduling Plan" of the Case Management Order. The current dates will be in (parentheses) and the proposed new dates will be in **bold**.

(a) The parties shall make all disclosures required by Rule 26(a)(1), Fed.R.Civ.P., no later than (February 20, 2009) **October 20, 2009**, and shall conduct all other discovery at the times and in the manner prescribed by the Federal Rules of Civil Procedure, unless modified herein.

(b)(i) Plaintiff shall disclose all expert witnesses and shall provide the reports required by Rule 26(a)(2), Fed.R.Civ.P., no later than (May 15, 2009) **January 15, 2010**. Plaintiff's expert witnesses shall be deposed no later than (June 17, 2009) **February 15, 2010**. Treating physicians shall be considered expert witnesses under Rule 26(a)(2) to the extent they give testimony as to causation or prognosis.

(b)(ii) Defendant shall disclose all expert witnesses and shall provide the reports required by Rule 26(a)(2), Fed.R.Civ.P., no later than (July 17, 2009) **March 17, 2010**. Defendant's expert witnesses shall be deposed no later than (August 17, 2009) **April 19, 2010**.

(d) Any requests for physical or mental examinations of parties pursuant to Rule 35, Fed.R.Civ.P., shall be made no later than (June 17, 2009) **February 17, 2010**, and all examinations shall be conducted no later than (August 17, 2009) **April 19, 2010**.

(e) The parties shall complete all discovery in this case no later than (August 24, 2009) **April 26, 2010**. Discovery requests must be served sufficiently prior to this date to allow the full response time before the completion date.

8. The following deadline is from Paragraph 5 of “Section I Scheduling Plan” of the Case Management Order. The current dates will be in (parentheses) and the proposed new dates will be in **bold**.

5. If applicable, any motion to exclude testimony pursuant to Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579, 592-93 (1993), shall be filed no later than (August 24, 2009) **April 26, 2010**.

9. The following deadlines are from Paragraph 6 of “Section I Scheduling Plan” of the Case Management Order. The current dates will be in (parentheses) and the proposed new dates will be in **bold**.

6. Any motion to dismiss, motion for judgment on the pleadings, or motion for summary judgment shall be filed with the Clerk no later than (September 8, 2009) **May 10, 2010**. The memorandum in opposition shall be filed with the Clerk by (October 8, 2009) **June 10, 2010**. The reply brief, if any, shall be filed with the Clerk by (October 19, 2009) **June 21, 2010**. Memoranda in support of or in opposition to a motion for summary judgment shall have attached a statement of uncontroverted material facts in separately numbered paragraphs with citations to the record, as required by Local Rule 4.01(E).

10. Pursuant to “Section II Order Relating to Trial,” a final pretrial conference is set for February 4, 2010. This case is set for trial on February 8, 2010. The parties have also agreed the new date for the final pretrial conference to be **October 4, 2010** and the new trial date to be **October 11, 2010**, or such other date that is convenient to the Court.

WHEREFORE 3M Company, with the agreement of all parties to this case, hereby requests this Court enter its Order Amending its Case Management Order and Continuing the Trial Date to the respective dates above and for any further relief the Court deems just and proper.

By: /s/ John J. Kurowski

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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing Entry of Appearance was sent to all counsel of record via Eastern District of Missouri electronic filing this _____ day of _____, 2009.

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